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Administration

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**TO:** USDA Chief Human Capital Officers

**FROM:** Mary Pletcher Rice  
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**SUBJECT:** Implementation of Emergency Paid Leave

The American Rescue Plan Act of 2021 (Public Law 117-2), provides paid leave to covered Federal employees when they are unable to work, including unable to telework, due to certain COVID-19 related situations. On April 29, 2021, the Office of Personnel Management (OPM) released memorandum, [COVID-19 Emergency Paid Leave](#), to provide implementing guidance for emergency paid leave.

This document provides guidance for agencies to administer the emergency paid leave program and should be used to answer questions received regarding emergency paid leave.

The National Finance Center (NFC) has developed Transaction Codes for use of emergency paid leave. The codes will be made available for employee use no later than May 23, 2021. Retroactive timesheets may be submitted to March 11, 2021.

### ***Emergency Federal Employee Leave Fund***

Emergency paid leave is funded by a \$570 million Emergency Federal Employee Leave Fund. If the Fund is exhausted, payments of emergency paid leave must cease.

### ***Eligibility***

Coverage under the OPM-administered emergency paid leave Fund is limited to civil service employees in the executive branch for whom annual and sick leave is provided under subchapter I of chapter 63 or title 5, United States Code.

Eligible employees are entitled to emergency paid leave on the first day of their appointment. Full-time employees are eligible for up to 15 weeks (600 hours) of emergency paid leave. Part-time employees, employees on an uncommon tour of duty, or employees with a seasonal work schedule, receive a prorated amount. Intermittent employees are not eligible.

### ***Rate of Pay***

Emergency paid leave is paid at the same hourly rate as annual leave.

## ***Payment Limitations***

An employee may not receive more than \$2,800 in emergency paid leave payments per pay period for a full-time employee, or a proportionally equivalent biweekly limit for a part-time employee. (*See Attachment 1: Frequently Asked Questions*)

## ***Timeframe the Leave may be Taken***

Employees may request emergency paid leave from March 11, 2021 until their qualifying circumstance ceases, up through September 30, 2021, or until Fund is depleted, whichever comes first.

## ***Coding the Timesheet***

Emergency paid leave is coded on the employee's timesheet using Transaction Descriptor 87 with Transaction Code 01. Employees may submit corrected timesheets to use emergency paid leave instead of other forms of leave that were used as a placeholder while USDA awaited implementation guidance from OPM. Employees should carefully review the payment limitations guidance before substituting emergency paid leave for other forms of leave that were used.

## ***Qualifying Reasons***

An employee is entitled to emergency paid leave if they are unable to work, including unable to telework, and:

1. Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. Is advised by a healthcare provider to self-quarantine due to concerns related to COVID-19;
3. Is caring for an individual who is subject to such an order or has been so advised;
4. Is experiencing COVID-19 symptoms and seeking a medical diagnosis;
5. Is caring for their son or daughter when required because the child's school or place of care has been closed, or the child is participating in virtual learning instruction, or the childcare provider is unavailable due to COVID-19 precautions;
6. Is experiencing any other substantially similar condition as approved by OPM;
7. Is caring for a family member who is incapable of self-care (due to mental or physical disability or who is 55 years of age or older) and, without regard to whether another individual other than the employee is available to care for the family member, if the family member's place of care is closed or the direct-care provider is unavailable due to COVID-19; or

8. Is obtaining immunization related to COVID-19 or recovering from any injury, disability, illness, or condition related to the immunization. *(Note: Agencies are to continue to grant administrative leave instead of emergency paid leave for vaccinations to preserve the Fund. See Attachment 1: Frequently Asked Questions)*

### ***Relationship to Other Leave***

Emergency paid leave is in addition to any other leave provided to an employee and does not affect balances of other paid leave.

Agencies may not require employees to deplete their annual and sick leave balances first before using emergency paid leave.

Emergency paid leave may only be charged during an employee's normal work hours.

### ***Calculation of Retirement Benefit***

Any emergency paid leave used by an employee will reduce the total service used to calculate any Federal civilian retirement annuity benefit.

### ***Required Documentation***

Certain information is required to be collected when an employee requests emergency paid leave.

1. **Employee Agreement.** Due to possibility of Fund exhaustion, emergency paid leave is granted on a conditional basis. Employees must agree that if any emergency paid leave is not available due to exhaustion of the Fund, the employee will use other paid leave or LWOP and reimburse the agency to cover the resulting overpayment. Waivers will not be granted for overpayments resulting from Fund exhaustion. *(See Attachment 2: Employee Agreement)*
2. **Requesting Leave.** Employees must provide the following:  
*(See Attachment 3: Employee Notification and Leave Request Form)*
  - a. Date(s) for which leave is requested;
  - b. Qualifying reason for the leave;
  - c. Statement that the employee is unable to work because of the qualifying circumstance and that they will meet the conditions associated with the qualifying circumstance during the use of the leave; and
  - d. Certify they understand that approval of emergency paid leave is conditional upon the availability of monies in the Fund and the obligations they will have if the leave is cancelled due to exhaustion of the Fund.
3. **Additional Required Information.** The following additional information must be provided by the employee for the different qualifying reasons:  
*(See Attachment 3: Employee Notification and Leave Request Form)*

- (1) **Qualifying Reason #1.** The government entity that issued the quarantine or isolation Order.
- (2) **Qualifying Reason #2.** The name of the healthcare provider who advised the employee to self-quarantine due to concerns related to COVID-19.
- (3) **Qualifying Reason #3.** The same documentation described for qualifying reason #1 and #2, as applicable.
- (4) **Qualifying Reason #4.** A self-certification in writing that the employee is experiencing COVID-19 symptoms and taking immediate steps to obtain a medical diagnosis.
- (5) **Qualifying Reason #5.** The employee must provide the following:
  - a. The name of the employee's son or daughter being care for;
  - b. The name of the school, place of care, or childcare provider that closed or became unavailable due to COVID-19;
  - c. A written certification that no other suitable person is available to care for the employee's child during the period for which they take emergency paid leave; and
  - d. A written explanation why the employee is unable to work, including unable to telework, during the requested hours of leave (e.g., ages of children, number of children, special needs of children, lack of other adults in the home, etc.).
- (6) **Qualifying Reason #6.** Any documentation the Director of OPM requires or recommends with respect to a particular substantially similar condition.
- (7) **Qualifying Reason #7.** The employee must provide the following:
  - a. The name of the family member with a mental or physical disability and a written certification that the family member has a mental or physical disability, if applicable.
  - b. The name and age of the family member that is 55 years of older, if applicable;
  - c. A written certification that the family member is incapable of self-care and a written explanation how the leave requested is necessary to provide essential care;
  - d. The name of the place of care that is closed or the direct-care provider that is unavailable and a written explanation of how the closure or unavailability is due to COVID-19; and
  - e. A written explanation why the employee's circumstances related to care for their family member's situation make them unable to work, including unable to telework, during the requested hours of leave.
- (8) **Qualifying Reason #8.** A self-certification, in writing, that the leave will be used to obtain immunization related to COVID-19 or to recover from any injury, disability, illness, or condition related to such immunization.

4. **Agencies May Request Additional Information.** In addition to the above, agencies may request additional information from the employee, explanation, or certifications if they have reason to believe that emergency paid leave is not being used appropriately.
5. **Agencies Must Retain Records for 4 Years.** Requests for emergency paid leave that were approved or denied must be maintained for 4 years in the Time and Attendance file. Records pertaining to medical information must be maintained separately and securely from the time and attendance documentation. Agencies must follow their established procedures.

### ***Agency Responsibilities***

Agencies are responsible to ensure:

- Employees meet all eligibility requirements and have provided required documentation and certifications before using emergency paid leave.
- The biweekly limit (\$2,800 or equivalent) and aggregate limit (600 hours or equivalent) are applied to each employee. *(See Attachment 4: Supervisor Tracker for Employee Use of Emergency Paid Leave)*
- Individual Retirement Records are annotated to document use of emergency paid leave: [Emergency Paid Leave Tracking \(opm.gov\)](https://www.opm.gov/policy-data-oversight/leave/leave-tracking/)
- Emergency paid leave hours used by an employee have been considered when providing retirement annuity estimates.
- Use of emergency paid leave hours have been documented on Standard Form 1150, Record of Leave Data, when an employee transfers to another agency or separates.
- All documentation provided by the employee is retained for 4 years, regardless of whether the leave was granted or denied.
- Claims for reimbursement are submitted after completion of each pay period. OPM will process claims on a first-come, first-served basis. *(Guidance will be forthcoming from the Office of the Chief Financial Officer for agency accounting and reporting offices on the reimbursement requirements)*
- Resolve any cases where conditional emergency paid leave is cancelled due to exhaustion of the Fund.

### ***Additional Information***

For additional information, refer to attachments and OPM [guidance](#). Please contact your servicing Human Resources Office with any questions.

- Attachments: (1) Frequently Asked Questions  
 (2) Employee Agreement  
 (3) Employee Notification and Leave Request Form  
 (4) Supervisor Tracker for Employee Use of Emergency Paid Leave